

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	08/961,083	CHOI ET AL.	
	Examiner Ja-Na Hines	Art Unit 1645	

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included  
erewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS  
NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative  
of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1.  This communication is responsive to 3/24/04.
- 2.  The allowed claim(s) is/are 237-262 and 264 (renumbered as 1-27).
- 3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
- 4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\* c)  None
  - of the:
  - 1.  Certified copies of the priority documents have been received.
  - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

- 5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- 6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- 7.  Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- 8.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 9.  Notice of References Cited (PTO-892)
- 10.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 11.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 12.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 13.  Notice of Informal Patent Application (PTO-152)
- 14.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
- 15.  Examiner's Amendment/Comment
- 16.  Examiner's Statement of Reasons for Allowance
- 17.  Other \_\_\_\_\_.

## DETAILED ACTION

### ***Amendment Entry***

1. The after final amendment filed March 24, 2004 has been entered. Claims 17, 18, 198-236, 263 and 265-268 have been cancelled. Claims 237-262 and 264 are under consideration in the office action.

### ***Withdrawal of Claim Objections***

2. The objection of claims 234-235 is withdrawn in view of applicants' cancellation of the claims.

## EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mark Hyman on May 3, 2004.

The application has been amended as follows:

Claim 237. (currently amended) An isolated *Streptococcus pneumoniae* polypeptide comprising a member selected from the group consisting of:

- (a) a polypeptide of amino acid residues 1 to 796 of SEQ ID NO:2;
- (b) a polypeptide of amino acid residues 2 to 796 of SEQ ID NO:2; and

c) an epitope-bearing portion of a polypeptide consisting of amino acid residues 1 to 796 of SEQ ID NO:2.

Claim 261. (currently amended) A method [of using the polypeptide of claim 238] to detect an antibody which specifically binds [said polypeptide] to the polypeptide of claim 238 comprising:

- (a) obtaining a biological sample containing said antibody;
- (b) obtaining a biological sample containing said polypeptide;
- (c) contacting aid antibody containing sample with said polypeptide containing sample under conditions suitable for said antibody to specifically bind said polypeptide; and
- (d) detecting the presence of said antibody bound to said polypeptide.

***Allowable Subject Matter***

4. Claims 237-262 and 264 are allowed.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ja-Na Hines whose telephone number is 571-272-0859. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on 571-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ja-Na Hines *JH*  
May 3, 2004

*L.R.F. Smith*  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600